

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF ILLINOIS**

ROBERT SALERNO, )  
vs. )  
Petitioner, )  
vs. ) CIVIL NO. 04-797-GPM  
UNITED STATES PAROLE )  
COMMISSION, FCI-GREENVILLE, and )  
WARDEN DARLENE A. VELTRI, )  
Respondents. )

**MEMORANDUM AND ORDER**

**MURPHY, Chief District Judge:**

On November 10, 2005, Magistrate Judge Frazier issued a Report and Recommendation (Doc. 12) in which he recommends dismissal of this petition for writ of habeas corpus because Petitioner failed to exhaust his administrative remedies. Petitioner filed a timely objection on November 18, 2005 (Doc. 13). In his written objection, Petitioner asserts that he appealed the adverse decision of the United States Parole Commission and exhausted his administrative remedies. Petitioner also asserts that he may have additional materials to show that he has exhausted his administrative remedies.

Because timely objections to the Report and Recommendation have been filed, this Court must undertake a *de novo* review. 28 U.S.C. § 636(b)(1)(B), (C); FED. R. CIV. P. 72(b); SDIL-LR 73.1(b); *Harper v. City of Chicago Heights*, 824 F. Supp. 786, 788 (N.D. Ill. 1993); *see also Govas v. Chalmers*, 965 F.2d 298, 301 (7<sup>th</sup> Cir. 1992). The Court “may accept, reject or modify the magistrate judge’s recommended decision.” *Harper*, 824 F. Supp. at 788. In making this determination, the Court must look at all of the evidence contained in the record and “give ‘fresh

consideration to those issues to which specific objections have been made.”” *Id.* (quoting CHARLES ALAN WRIGHT, ARTHUR M. MILLER & RICHARD L. MARCUS, FEDERAL PRACTICE AND PROCEDURE: Civil 2d § 3076.8, at p.55 (1992 Pocket Part)).

It appears that Petitioner may have exhausted his administrative remedies. For this reason, dismissal is not appropriate at this time. Accordingly, the Report and Recommendation (Doc. 12) is **REJECTED**, and the matter is referred to Magistrate Judge Frazier to reconsider the petition for writ of habeas corpus in light of the additional materials produced. Petitioner **SHALL** file his supplemental documents, if any, on or before **December 27, 2005**. Defendants shall respond to the new materials on or before **January 27, 2006**.

**IT IS SO ORDERED.**

DATED: 12/08/05

s/ G. Patrick Murphy  
G. PATRICK MURPHY  
Chief United States District Judge